

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of APRIL OWENS and U.S. POSTAL SERVICE,
POST OFFICE, Detroit. MI

*Docket No. 00-1671; Submitted on the Record;
Issued April 17, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a traumatic injury on July 12, 1997, causally related to her federal employment.

On July 12, 1997 appellant, then a 32-year-old letter carrier, filed a traumatic injury claim alleging that on that date she felt a pulling sensation in the back of her left leg when she walked to her vehicle. Appellant did not stop work. In December 1998 appellant accepted a limited-duty position.

To support her claim, appellant submitted a July 12, 1997 report, in which Dr. Lydia Baltarowich, Board-certified in emergency medicine, provided a history of her alleged injury, objective findings and subjective complaints. Dr. Baltarowich noted that appellant reported that she came down on her left foot and felt a sudden pulling sensation and pain in her left posterior knee, however, she did not sustain a twisting injury or come down very hard on her left foot. She further noted that on examination, there were no signs of trauma. Dr. Baltarowich stated that an x-ray revealed no fracture, dislocation, or effusion. She diagnosed a left knee injury with a possible meniscal tear.

Appellant submitted treatment notes dated July 12 and 16, 1997 from Drs. Lara L. Dennis, Board-certified in diagnostic radiology and Ghiyath Habra, Board-certified in diagnostic radiology. Dr. Dennis' July 12, 1997 note indicated a negative left knee x-ray. Dr. Habra's July 16, 1997 note indicated that an x-ray showed no evidence of fracture, dislocation, or displacement.

Appellant submitted a July 15, 1997 report, in which Dr. Gale S. Northcross, an occupational medicine specialist, provided a history of appellant's alleged injury, objective findings and subjective complaints. Dr. Northcross stated:

“[Appellant] states that when she was just simply walking down the sidewalk she felt pain or a pulling-type feeling in the back of her left knee. Her calf started

feeling tight about the same time. She denies direct or indirect trauma, no twisting, turning, or tripping. She was simply walking on an even sidewalk.”

She diagnosed left knee pain and possible Baker’s cyst. Dr. Northcross advised that appellant work a sedentary job until examined by a specialist.

Appellant submitted a report dated October 14, 1997, in which Dr. Glafkos Theodoulou, a Board-certified orthopedic surgeon, provided a history of appellant’s alleged left knee condition, course of treatment and current symptoms. Dr. Theodoulou noted that appellant stated that three years prior to her alleged employment injury she experienced clicking in her left knee without pain. She also reported that she sustained previous injuries to her left and right ankles, right wrist and lower back including left ankle posterior tibial tendon repair. He noted his objective findings but stated that his diagnosis was pending a magnetic resonance imaging (MRI) report.

In his November 11, 1997 report, Dr. Theodoulou stated that an MRI of the left knee showed a small bone bruise involving the posterior aspect of the lateral tibial plateau. He advised appellant to continue with her existing work restrictions and added that weight loss would be beneficial.

Appellant submitted notes and reports dated July 12, 1997 to August 17, 1998 from Dr. Terrence R. Lock, a Board-certified orthopedic surgeon. In his May 6, 1998 report, Dr. Lock stated that appellant’s left knee seemed to have improved but she continued to experience right knee problems. Dr. Lock stated his objective findings and noted that x-rays revealed a mildly asymmetrical medial compartment with narrowing in the right knee. He diagnosed early degenerative joint disease of the right knee medial compartment and left knee patellofemoral pain.

In his July 6, 1998 report, Dr. Lock stated that appellant continued to complain of bilateral knee pain and trouble climbing stairs. He noted his objective findings including range of motion and diagnosed early degenerative joint disease in the right knee and bilateral patellofemoral symptoms. In an August 17, 1998 note, Dr. Lock advised that he was treating appellant for bilateral knee problems. He stated: “[Appellant’s] left knee injury was due to trauma while her right knee was injured while on the job.”

Appellant submitted numerous duty status reports dated July 12, 1997 to March 22, 1999, indicating her work activity restrictions and diagnosing left medial anterior knee pain.

By decision dated April 25, 1999, the Office of Workers’ Compensation Programs denied appellant’s claim on the grounds that the evidence of record failed to establish that her alleged left knee injury was causally related to the July 12, 1997 employment incident.

By letter dated May 5, 1999, appellant, through her representative, requested an oral hearing before an Office hearing representative.

Appellant submitted reports from Dr. Lock dated March 22 to October 26, 1999, in which he provided a history of the July 22, 1997 employment incident and his examination findings. Dr. Lock diagnosed early bilateral degenerative joint disease.

At the oral hearing, which was held on October 26, 1999, appellant's representative argued that the Office erred in terminating appellant's benefits in violation of its procedure manual. The representative also argued that once the Office accepts a claim it has the burden of showing that a claimant is no longer entitled to receive benefits prior to termination. Appellant testified that she sustained an injury while working her mail delivery route when she felt pulling in the back of her leg. She further testified that she heard a pop and her knee locked when she attempted to climb stairs. Appellant discussed her subsequent treatment and work duties. She stated that after the Office denied her claim the employing establishment asserted that it no longer had work available for her to perform although she was able to work her route. She alleged that she sustained a right knee injury in August 1998 and that Dr. Lock diagnosed bilateral degenerative joint disease. Appellant testified that since July 12, 1997 she has had pain and clicking and that she was not currently working.

Appellant, through her representative, submitted a brief dated October 26, 1999, in which she asserted that she was disabled from work due to her left knee condition. She argued that the Office erred in failing to notify her of its intention to terminate her benefits and that once the Office accepts a claim it has the burden of proving that the employee was no longer disabled.

By decision dated January 13, 2000, the Office hearing representative affirmed the April 25, 1999 decision on the grounds that the medical evidence of record failed to establish that appellant's left knee condition was causally related to the July 12, 1997 employment incident.

The Board finds that appellant failed to establish that she sustained a traumatic injury on July 12, 1997, causally related to her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.² Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.³

To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence.⁴ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Ronald K. White*, 37 ECAB 176, 178 (1985).

⁴ *See John J. Carlone*, 41 ECAB 354 (1989).

establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed.⁵ An employee may establish that the employment incident occurred as alleged but failed to show that his disability and/or condition relates to the employment incident. As the Office did not dispute that the July 12, 1997 employment incident occurred at the time, place and in the manner alleged, the remaining issue is whether the alleged injury was caused by the employment incident.

In order to satisfy his burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the alleged injury was caused by the employment incident.⁶ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the employee's alleged injury and the employment incident. The physician's opinion must be based on a complete factual and medical history of the employee, must be of reasonable certainty and must rationally explain the relationship between the diagnosed injury and the employment incident as alleged by the employee.⁷

The medical evidence of record fails to show that appellant sustained an injury in the performance of duty on July 12, 1997 causally related to her federal employment. In reports and notes dated July 12, 1997 to October 26, 1999, Dr. Lock diagnosed a mildly asymmetrical medial compartment with narrowing of the right knee, early degenerative joint disease and patellofemoral pain in the left knee. In his note dated August 17, 1998, Dr. Lock stated that appellant's "left knee injury was due to trauma while her right knee was injured while on the job," but did not specifically relate those conditions to her July 12, 1997 employment incident.

In her July 12, 1997 report, Dr. Baltarowich diagnosed a "left knee injury" with a possible meniscal tear, but did not provide a rationalized medical opinion explaining the relationship between appellant's left knee condition and the July 12, 1997 employment incident. In their July 12 and 16, 1997 notes, Drs. Dennis and Habra noted their x-ray findings but did not address causal relationship. Similarly, Dr. Northcross, in her July 15, 1997 report, diagnosed left knee pain and a possible Baker's cyst but did not rationally relate appellant's condition to the employment incident.

Dr. Theodoulou's October 14 and November 11, 1997 comprehensive reports did not address the causal relationship issue. Dr. Theodoulou diagnosed a small bone bruise on the posterior aspect of the lateral tibial plateau but did not relate that diagnosis to the July 12, 1997 employment incident.

Appellant's arguments that the Office erred in failing to notify her of its intention to terminate her benefits and that once the Office accepts a claim it has the burden of proving that the employee is no longer disabled are irrelevant. The Office did not accept appellant's claim

⁵ *Shirley A. Temple*, 48 ECAB 404, 407 (1997); *Elaine Pendleton*, *supra* note 2 at 1145.

⁶ *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

⁷ *See Shirley R. Haywood*, 48 ECAB 404, 407 (1997).

and did not award benefits. As the Board has often found, the Office's payment of medical treatment expenses does not constitute acceptance of a specific injury or condition.⁸

The January 13, 2000 and April 25, 1999 decisions of the Office of Workers' Compensation Benefits are hereby affirmed.

Dated, Washington, DC
April 17, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁸ *Carolyn F. Allen*, 47 ECAB 240 (1995).